

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DINÉ CITIZENS AGAINST RUINING
OUR ENVIRONMENT, *et al.*;

Plaintiffs,

VS.

DAVID BERNHARDT, *et al.*;

Defendants.

No. 1:19-cv-00703-WPJ-JFR

NAVAJO ALLOTTEES' RESPONSE TO PLAINTIFFS' NOTICE OF COMPLETION

On August 6, 2019, Proposed Intervenor Delora Hesuse, Alice Benally, Lilly Comanche, Virginia Harrison, Samuel Harrison, Verna Martinez, Lois Phoenix, and Mabel C. Senger (collectively, “Navajo Allottees”) filed their Unopposed Motion to Intervene in this proceeding. As described in their Intervention, they are among hundreds of Navajo Nation citizens who own mineral rights currently in production or approved for production by the United States Department of the Interior. On August 22, 2019, the Court issued an order granting the Navajo Allottees’ Motion to Intervene. Since their initial filing, the Navajo Allottees participated in numerous Navajo governmental and community meetings regarding this litigation. There are hundreds, if not thousands, of similarly-situated Navajo Allottees whose sole or primary source of income—flowing from the ongoing development of their allotted minerals—is at risk in this litigation.

Yet, on September 5, 2019, Plaintiffs filed a Notice of Completion of briefing on Plaintiffs’ Motion for Preliminary Injunction, stating that their Motion was ready for decision. Plaintiffs’ representations to this Court are inaccurate. On August 22, 2019, the Navajo Allottees filed a Notice of Intent to Join Additional Intervenors. As described in the Allottees’ filing, as word of this litigation has spread, more than 100 Navajo Nation citizens, who own allotted minerals either

currently in production or permitted for production pursuant to the decisions Plaintiffs challenge in the instant lawsuit, have requested to join the Navajo Allottees' Motion to Intervene. Moreover, the Allottees gave notice that they anticipate filing one Notice of Proposed Joinder for however many allottees may wish to do so this month, and thereafter, further anticipate requesting a modest briefing schedule from the Court. The briefing schedule the Navajo Allottees intend to request is to accommodate all the intervening allottees' submission of individually-tailored affidavits to be submitted in opposition to Plaintiffs' Motions, detailing the personalized economic harms that will befall them if the injunctive relief is granted. As described in the Navajo Allottees' earlier submissions, oil and gas royalties are the majority, if not the sole source of income, for the Navajo Allottees. The injunctive relief Plaintiffs request would be absolutely calamitous for the Navajo Allottees.

The Navajo Allottees are diligently working to digest and respond to the nearly 4,000 pages of material already submitted to the Court in connection with Plaintiffs' Motion. They are also working to gather detailed federal records to support their opposition.

Respectfully, briefing on Plaintiffs' motion is not complete until the Intervenor Navajo Allottees' voices are heard. As noted in the Court's August 28 Order, there is no emergency attendant to Plaintiffs' case; they have had months if not years to prepare it and/or have already been litigating these issues for years. The interests of justice would be served by allowing some modest time for the Navajo Allottees to inform the Court of their perspectives and the specific harms they will suffer if the requested injunctive relief comes to pass. Additionally, given the current demands in the District described in the Court's August 28 Order, there is no reason to declare briefing complete months before the Court could practicably: (1) complete the other

complex civil litigation rulings the Court intends to address first, (2) review the tomes of material already in the record, or (3) hear argument on the Motion. There simply is no basis for Plaintiffs to try to silence the Navajo Allottees by declaring briefing closed so far in advance of the Court's ability to address the Motion.

The Navajo Allottees therefore restate their notice of intention to request a modest briefing schedule from the Court at an appropriate time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of September 2019, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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